

**MINUTES OF THE COTTONWOOD HEIGHTS CITY COUNCIL WORK SESSION
HELD TUESDAY, DECEMBER 15, 2020, AT 5:00 P.M. THE MEETING WAS HELD
ELECTRONICALLY, WITHOUT A PHYSICAL LOCATION DUE TO THE CURRENT
COVID-19 PANDEMIC AND AS AUTHORIZED BY THE GOVERNOR'S EXECUTIVE
ORDER DATED 18 MARCH 2020**

Members Present: Mayor Mike Peterson, Council Member Scott Bracken, Council Member Tali Bruce, Council Member Christine Mikell, Council Member Douglas Petersen

Staff Present: City Manager Tim Tingey, City Attorney Shane Topham, Police Chief Robby Russo, Assistant Fire Chief Riley Pilgrim, Records Culture and Human Resources Director Paula Melgar, Community/Economic Development Director Michael Johnson, Public Works Director Matt Shipp, Finance and Administrative Services Director S. Scott Jurgens

1. Welcome and Determination – Mayor Michael Peterson.

Mayor Mike Peterson called the meeting to order at 5:00 p.m. and welcomed those listening. He read in its entirety the declaration giving the Council the authority to hold the meeting via Zoom, pursuant to Utah Code Annotated §52-4-207(4).

2. Central Wasatch Commission Presentation – Ralph Becker, CWC Executive Director.

Central Wasatch Commission (“CWC”) Executive Director, Ralph Becker noted that Mayor Peterson has been an active member of the CWC from the time Cottonwood Heights became a member. He has chaired the Transportation Committee and remains extremely active and engaged in the work of the Commission.

Mr. Becker provided an update on what they have been doing since the last presentation. The CWC was formed out of Mountain Accord, which was a consensus-based effort to agree on how to best protect the mountains going forward, including how to solve longstanding transportation issues. The CWC is comprised of 10 jurisdictions, all of which are cities and counties in or adjacent to the Central Wasatch Mountains. The Utah Transportation Authority (“UTA”) is an ex-officio member of the Commission.

Mr. Becker presented a visual of the CWC’s membership, which includes Mayor Peterson as an officer and active member. There are two standing committees, the Budget/Finance Committee and the Executive Committee. At the end of 2019, the Commission decided to prioritize and form sub-committees in three areas, one of which is the Transportation Committee.

There is also a Short-Term Projects Committee. Mr. Becker reported over the last year they have funded seven projects involving immediate need. Cottonwood Heights invested heavily in the Open Space Project.

The third sub-committee seeks to continue to work with the Congressional Legislation to address pertinent issues.

A 35-member Stakeholder Council represents the many interests in the Central Wasatch, including conservation groups, ski resorts, owners of large properties, and businesses. The Council is also broken down into sub-committees that focus on a variety of areas, as well as serving as the principal advisory group to the Commission.

Mr. Becker presented two primary areas of focus for the Commission in 2021 - finalization of a Mountain Transportation System and finalizing the Congressional Legislation. Their goal was to accomplish these two items in the first quarter of 2021. Thereafter, efforts would be focused on implementing whatever consensus agreements are reached.

He noted that other areas of significant interest that will be addressed include a Visitor Use Study, continuing to identify and work on special projects, and completing an Environmental Dashboard. Mr. Becker noted that the Environmental Dashboard would be a one-stop portal for information about the Wasatch region that would be available to the public.

During this year's Retreat, the CWC agreed to re-shift its focus to look at the best solutions for a Mountain Transportation System. Their goal was to look at the Salt Lake Valley, the canyons, and the Wasatch as a whole and not as separate areas in terms of transportation issues.

As part of this work, Mr. Becker reported that they have reviewed dozens of studies completed over the years and up through this year, including the work being done by the Utah Department of Transportation ("UDOT"). He commented that the potential solutions to addressing transportation have not changed for over 30 years. They are at a point of making decisions and solving problems, including the problems facing Cottonwood Heights. The work of the CWC has paralleled the work of UDOT and their Cottonwood Canyon Environmental Impact Statement ("EIS").

In early 2020, the CWC received numerous inquiries concerning the overlap between their work compared with that of UDOT. They thereafter worked with UDOT to create a chart showing what each entity was working on, timelines, geographic scope, intended outcomes, and how they will be accomplished. With respect to Highway 210, UDOT has the authority to make a decision that could be funded immediately.

The CWC study area is broader than UDOT's and contains more planning aspects that are different from an EIS being run by an agency such as UDOT. The CWC has looked at transportation issues comprehensively and obtained information from private and public consultants on a range of issues that will impact various users.

Mr. Becker presented the timeline to the Council and commented that they are moving along the timeline quite well. The Board was looking to devote substantial time in the first quarter of 2021 to arrive at a decision so that the local elected officials representing each of the jurisdictions can be provided with what the CWC believes to be the best approach to solving the transportation issues. They would thereafter work to influence the final decisions by those who would fund the recommended projects. He further reported that CWC Deputy Director, Blake Perez has taken the

lead on the mountain transportation agenda and they have arrived at a number of recommendations. The Board has not yet made any decisions on these recommendations. One of the recommendations was that valley transit service must be improved as part of any alternative solution. One of their concerns was that unless valley transit service is improved significantly, traffic bottlenecks will be moved further into Cottonwood Heights.

Another recommendation involves looking into improving transit access, be it train or bus, from the TRAX Line to the mouth of the Canyons, as well as community impacts and parking. Currently, parking is not a focal point of the UDOT EIS.

Mr. Becker reported that another recommendation is improving the Salt Lake City and Park City connection that is already in place.

He noted that Millcreek Canyon continues to be a source of significant work that does not directly affect Cottonwood Heights but does impact users.

Mr. Becker reported that the Commission decided to move ahead with its own intensive consideration of each of the alternatives. There are three major modes--bus, rail, and aerial systems. In the first quarter of next year, they will be undertaking intensive sessions addressing each of these modes with the goal of arriving at concrete decisions by the beginning of April 2021.

Mr. Becker invited questions from the Council. Mayor Peterson noted that the process of the CWC has been thorough and in the last month there has been significant work put into getting to the point of understanding the different modes, while not taking away the importance of looking at the federal designation, EIS, special projects and the entire picture. He added that with UDOT preparing to make a selection as to a preferred alternative by June 2021, they feel that the CWC needs to be well prepared to take a position in order to allow them the opportunity to influence UDOT in its decision.

Council Member Petersen inquired about the rail option. He noted that Cottonwood Heights recently went through a process of acquiring property to preserve it from development and expressed concern with the use of the rail option through that property. Mr. Becker responded that the CWC was aware of the acquisition and put money into the acquisition. They were not aware of whether there was alignment. In early November, UDOT came up with an amended range of alternatives that included rail and an alignment. The CWC and staff assumed the alignment was in UDOT's right-of-way. It started to come to a head over Thanksgiving when Council Member Mikell brought it to his attention and they immediately addressed it with UDOT. Mr. Becker had a discussion with UDOT's decision-maker on this issue and her comment was that UDOT had been looking at property ownership but did not correlate it with the open space property acquired by Cottonwood Heights. UDOT was now making adjustments to avoid that property. That work is currently underway, although no conclusions had yet been reached.

Council Member Petersen noted that this issue had created quite a stir because they were in the process of closing and it caused concern about future purchases.

Mayor Peterson added that he, City Manager Tim Tingey, Community and Economic Development Director Michael Johnson, and Council Member Mikell met with UDOT, who in essence apologized and promised to mitigate the issue by avoiding the property altogether. Mayor Peterson expressed his appreciation for CWC's support on this matter, as well as Council Member Mikell's direct involvement.

Council Member Mikell inquired about CWC's support of potential alternatives and the process of how the Commission will decide which alternatives will be pursued. Mr. Becker explained that the CWC has always operated by consensus. The CWC has been and will be working through a consensus-building process that began with the Retreat in mid-November. There is currently no commitment as to what mode or combination of mode solutions they favor. He commented that the CWC reviews this differently than UDOT. UDOT is focused on how to relieve congestion on the roadway corridor. CWC is looking more comprehensively and evaluates impacts beyond just roadway impacts.

The CWC website contains an outline of the scope, objectives, and attributes to be considered and they have now refined that with a list to be used as a matrix to make sure that they are considering the full range of factors. When the process began, he believed the chances of the Commission reaching a consensus was unlikely but as they have gone through the process they are seeing members begin to understand and accept that some things will work and some things will not. They were working to determine which solution will best satisfy the multitude of interests and jurisdictions and also serve the visitors.

Mayor Peterson acknowledged that the main concern that they have as a City is how the CWC will be able to influence the finalization of the EIS and the decision by UDOT this summer. He reported that he had not heard of any one Commission Member advocating one alternative over another. Over the next few months, the Commission will do a deep dive into the details of the alternatives. He commented that if the Commission can reach a consensus that will go a long way to influencing UDOT.

Council Member Mikell expressed her hope that the Commission as a whole will arrive at a consensus alternative that is supported by Cottonwood Heights and other jurisdictions. She inquired as to what happens if UDOT wants its own alternative and emphasized that this is the most important topic for citizens in her District because whatever is selected will have an impact on ingress and egress. Mr. Becker stated that these types of scenarios press the Commission on the need to arrive at a consensus. The greatest ability to have significant influence over the outcome is for the cities to operate in unison through the Commission.

Mayor Peterson added that the CWC has a goal of enhancing its relationship with the Legislature and the Governor's office. Ms. Mikell added that Cottonwood Heights will benefit from a regional approach to transit. She was concerned with how UDOT and the CWC will arrive at the same decision since both are looking at it from different perspectives. Mr. Becker noted that one thing they have worked hard at is to maintain regular communications with UDOT. He has regularly scheduled calls with UDOT's decision-maker on these topics so that they do not get too far at odds with each other's goals.

Council Member Bracken thanked Mr. Becker for his presentation.

3. Review of Business Meeting Agenda – Mayor Michael Peterson.

Mayor Peterson noted that the first item on the Business Meeting Agenda is citizen comments. There is a public hearing regarding the budget amendment, which will also allow for public comments.

The agenda also includes a staff report on the Audit Report from the City Auditors.

Action Item 6.1 is the Budget Amendment. Mr. Tingey explained that the Budget Amendment includes two items. One item involves the Capital Improvement Fund for the installation of heat for the Public Works shop. They requested bids for the facility that will allow for better working conditions for staff. It also expedites dispatch for snow plowing in emergencies. The proposed amendment is for approximately \$21,000.

Mr. Tingey reported that the second part of the Budget Amendment is the compensation proposal for market and merit adjustments. Just prior to COVID-19, there was a recommendation by the Compensation Budget Committee to defer implementation in the July 1 budget until they could assess their funding related to revenues through the pandemic. In October and November, additional information was provided and the Council directed staff to include it on the December 15 meeting for consideration. If implemented, compensation will begin in January 2021. The proposal was for half of the year, totaling approximately \$304,000.

Action Item 6.2 involves declaring certain property surplus. Finance and Administrative Services Director, Scott Juges explained that they have several modems that were taken out of police vehicles before they were turned in. The modems are not in great shape, but they are serviceable. They would like to utilize eBay to sell them. There are 37 modems that they would like to sell, which would be handled through the Police Department. Proceeds from the surplus will be designated as revenue in the General Fund.

Action Item 6.3 involved consent to three reappointments to the Historic Committee. The three individuals have been very good committee members and bring a depth of understanding to the history of the area. He would recommend approval of the appointments.

Action Item 6.4 involved designating a portion of Prospector Drive as permit parking only. Mr. Johnson introduced the item and explained that if approved, staff would suggest that they return to this issue when the overflow lot is being constructed. He suggested that the Council utilize the provision that allows them to amend the parking area and put it on hold while the overflow lot is under construction so that there is available parking for trail visitors. Once the lot is constructed, the Council can reestablish the permit parking only area.

Mayor Peterson requested clarification regarding the form of the permits to be utilized. Mr. Johnson explained that a different form of permit would be used for guest permits. The matter would be discussed at the January meeting. Mayor Peterson confirmed that if approved, they would be approving the designated permit area, excluding the area on Quicksilver, which would

have to be applied for separately. Approval would take place with the understanding that enforcement would be softened during construction. In the January meeting, they would then discuss guest permits and implementing a window pass versus something permanently affixed to a vehicle. Mr. Johnson noted that no action was needed tonight on the issue of modifying the parking area during construction. At the time construction is to take place, the Council would schedule a public hearing to initiate a modification.

Council Member Mikell confirmed her understanding of the foregoing. Council Member Bruce suggested placing the matter on hold for a few months given the decreased use of the trails during the winter months. Council Member Mikell was opposed this suggestion. It was noted that the Council is required by Code to consider the application within 30 days from the public hearing. Therefore a decision must be made on the matter tonight.

Council Member Bracken agreed with Council Member Bruce's proposal and suggested that they revisit the matter in March 2021, which would allow them to complete the text amendment.

The Council discussed how they would "soften enforcement" of the permit area. The suggestion was made to place bag over the signs so that there would not be any confusion. Mayor Peterson noted that once they have a definitive construction timeframe, the Council can discuss specifically what "soften enforcement" means. They need to accommodate and be sensitive to those wanting to access the trail during construction of the parking lot.

Mr. Johnson explained that it will take at least a few weeks to order signs and have them installed. He did not believe there would be much time between getting the area up and running and consideration of a text amendment. If approved tonight, the resolution would become immediately effective. They would just need time from an administrative perspective to send out letters, issues permits, order signs, and have them installed. He would expect a grace period before starting to enforce the permit-only parking area. They could also set a date certain for implementation. Council Member Petersen added that fabrication of the signs likely involves two to three weeks. Once they are received, they will be installed.

It was noted that the ordinance contemplates that after the Council acts to designate the parking area, there will be a period where things have to happen administratively before implementation. Mayor Peterson was agreeable to the foregoing. Council Member Bruce reported that Police Chief, Robby Russo had concerns about the constitutionality of the change as well as enforcement. Chief Russo stated that he did not have any concerns other than those previously raised. He noted that they will abide by the policy decision and enforce it as directed.

City Attorney, Shane Topham reported that he understands the equal protection concern that public streets are open to everyone. He further stated that he was comfortable with the Council's identification of areas that are subject to significant parking demands and the Council's police power to enact this type of regulation.

4. Staff Reports.

a. **Gravel Pit – Community and Economic Development Director, Michael Johnson.**

Mr. Johnson gave a broad overview of the site and development plans as they exist today, as well as reporting on the process that the development has gone through. In future meetings, they will focus on the Council's specific areas of concern or items that staff has identified for discussion. He identified the location of the project, which involves the most northern 20 acres of the gravel pit and the only parcel with a different owner. Active operations on this parcel ceased several years ago.

The property is zoned Low-Density Residential but going back to the General Plan, that has never been the vision for the area. The General Plan/Land Use Plan defines it as a Mixed-Use zone. Mr. Johnson described the proposed Development Plan for the parcel. The proposal and process consist of a rezone, but includes a written ordinance that would be written specifically for the site as well as a site plan applying the ordinance to show what the final development will look like.

Mr. Johnson provided a general overview of the proposed development site and explained that there are two residential buildings on the east side of the property. There is also a proposed hotel in the middle with two general retail uses. In the area closest to SR-190 there will be two more retail sites and two three-story mixed-use buildings. The site also contains an aqueduct waterline and the associated easement that is owned by Metropolitan Water. There are significant restrictions pertaining to what can and cannot be constructed on the waterline. The development also proposes to connect Wasatch Boulevard in the City of Holladay through the site that would daylight into the southern portion of the gravel pit and be connected when that parcel is developed in the future.

Mr. Johnson described the two proposed roundabouts and noted that there are good pedestrian amenities included as part of the plan. The red lines shown on the slide were identified fault lines and fault setback areas. The fault lines also somewhat constrict development on the site.

He presented a site Landscape Plan that details some of the open space, the plaza, and pedestrian area amenities. Over the waterline easement, the developer has proposed a large, naturally landscaped public gathering area. Also included were pedestrian areas that serve to connect the retail structures. A public trailhead and public trail are included in the proposed development that would connect with the Bonneville Shoreline Trail in the future. When the proposed trail is connected, it will be deeded to the City as a public trail. In the interim, it will be accessible to the public.

Mr. Johnson presented renderings of the proposed structures, which are only meant to provide a sense of the scale of the buildings from various vantage points. The renderings were prepared at the request of the Planning Commission and were useful in their review. In general, the taller buildings are proposed to be installed further east back into the hillside. This is consistent with the ordinance that allows greater building heights the further east they go. He indicated that they would get into much greater detail regarding the development at future meetings. He noted that the residential portion of the development is proposed to have 424 units and according to the

ordinance, 10% of the units must be affordable. That number could potentially increase depending upon how the Council proceeds with the proposed text amendment.

The two residential structures are the tallest and most dense structures proposed. The apartment building is proposed to be seven stories, including two levels of parking at the ground level. The condominium building is proposed to be 13 stories, including three levels of parking. The retail and mixed-use pads are proposed to be one to three-story buildings, depending upon use. The hotel is proposed to be five stories.

Mr. Johnson addressed parking in the proposed development. Parking for the residential structures is proposed to be contained primarily within the parking structures and adjacent surface lots. Parking for the non-residential uses would be surface parking, generally where the fault lines are located. There are a total of 330 stalls proposed and they are planned for compatible, shared uses.

Much of the open space in the development is hillside and trail area, which is approximately 28% of the total site. Landscaped areas not on the hillside are another 21%. Trail parking would be permitted within the shared parking areas. Building footprints are 19% of the total site, while hardscape is 27% of the total site.

Mr. Johnson described the development process to date. The property was discussed at length in the original General Plan. There has been significant analysis of how the proposal complies with the 2005 General Plan. In 2015, the Planning Development District zoning tool was created and this was one of the sites that the tool was created for. The intent was to incentivize a more creative approach to redevelopment. Before the Wasatch Master Plan was adopted, there was a site visit with the current applicant, and time was spent thereafter discussing a preliminary version of the plan.

When the Wasatch Master Plan was adopted, it included several recommendations for the site. In Spring 2019, the focus was on completing the development application. The developer held two open houses independent of the City. The full application was received in August 2019. After receipt of the application, there have been work session discussions and introductory meetings with the Planning Commission. All of these steps have been publicly noticed.

In January 2020, the Development Plan was introduced to the Architectural Review Commission (ARC). Four meetings were held before receiving a recommendation from the ARC. The application was formally brought to the Planning Commission for public hearing in July 2020. In October 2020, after several meetings, the Planning Commission issued its final recommendation.

The Planning Commission's public hearings were continuous over six meetings. They received approximately 100 unique public comments through the process. The vast majority of the comments received came from residents from the City of Holladay, with the most common concern being the traffic impact on Old Wasatch Boulevard.

Mr. Johnson reported that they received public comments regarding concerns over sensitive lands and fault lines. There have been numerous studies completed by City engineers and geological

consultants to arrive at a point where they feel comfortable with the development from that standpoint.

Staff recommended approval to the Planning Commission in October 2020. The recommendation included certain findings and conditions that are contained in the staff report. He noted that significant work was done to get to the point of approval. The Architectural Review Commission (“ARC”) made several good suggestions and changes to the original plans that were implemented by the developer. The ARC recommended unanimous approval, which is the equivalent of a certificate of design compliance.

The Planning Commission considered all of the work performed as well as public comments and recommended approval of 5-to-1 with additional findings and conditions recommended as part of the approval.

What remains to be done is review and discussion by the City Council and a public hearing. They will finalize the proposed written ordinance, which will consist of incorporating the Planning Commission’s recommendations, additional recommendations from the Council, and further refinement as recommended by staff and the City Attorney. They will need to incorporate the decision on the Affordable Housing text amendment so that it can be incorporated into the final written ordinance.

Mr. Johnson estimated that they are approximately 90% complete with the geotechnical aspects of the project. As specific buildings are proposed, more specific engineering will be required. They will continue to coordinate with the City of Holladay regarding their concerns. The applicant has met with officials from the City of Holladay and is working to address their concerns.

From a staff perspective, Mr. Johnson reported that they are close to having a completed development package ready for Council review and decision. Mayor Peterson invited each Council Member to direct any questions to Mr. Johnson and staff to address at future meetings.

Council Member Bruce expressed concern about the geotechnical aspects, specifically the fault lines running through the condominium complex. She also asked if there are other City amenities that could be included in the development.

Council Member Mikell requested information on the height of the Immigration Towers structures and how they compare with the structures proposed in the plan. She inquired as to whether they could include something in the newsletter that addresses the process and this particular development. Finally, she questioned whether the public can be directed to the developer’s website for specific information and details regarding the project.

Council Member Bracken added that there has been a significant amount of work and input on the development. He remarked that the traffic issues have improved and found it interesting that they can place the buildings on the site with all of the other issues present. He expressed his appreciation for the work performed by staff, the Planning Commission, and the ARC.

Council Member Petersen requested clarification that the location of the taller buildings within the development would be further east to not be along Wasatch Boulevard. Mr. Johnson confirmed that the taller buildings will be set back and located on the other side of the proposed internal road. Both residential buildings are the furthest from SR-190. Residents to the north of the residential buildings will be able to see the buildings. They have asked for clarification regarding the visual impact from the northern neighborhood to the condominium tower.

Mayor Peterson encouraged the Council Members to email additional questions to Mr. Johnson. He expressed appreciation for the ARC's involvement and work on the project. He hoped to receive more information on the traffic impact. Building heights, especially with the residential buildings, were of concern to him. He also wanted to address trails and connectivity, UDOT's involvement and their EIS, coordination with the City of Holladay, reclamation and the scar behind the height of the buildings, the text amendment, and the Council's role in approving the development plan.

b. Restrictions on Protests in Front of Homes/Residential Neighborhood – Police Chief Robby Russo.

Mayor Peterson introduced the above item by stating that there has been significant discussion not just in Utah but also across the country about restricting protests in front of homes and in residential neighborhoods. Chief Russo explained that there is a proposal to adopt an ordinance to prohibit targeted picketing in front of any residence. The issue came to light as a result of the situation involving Dr. Angela Dunn. Salt Lake City and several other municipalities have adopted ordinances that prohibit anyone from protesting within 100 feet of a targeted residence, as citizens should be free from harassment in their home. He noted that the Police Department supports adoption of the ordinance.

Mayor Peterson inquired as to whether there is interest by the Council in pursuing this type of legislation. It was expressed that it warrants discussion. Mr. Topham added that this type of ordinance was enacted in Salt Lake City in 2007 and is something that other cities are addressing. There is a 1988 United States Supreme Court decision holding that it is within the City's police power to protect individual residences from targeted picketing. The standard adopted by other municipalities has been 100 feet from a targeted residence.

Council Member Mikell asked about the process of addressing the issue. It was suggested that it be addressed at the next meeting or at the Retreat in February 2021. Council Member Bruce requested that staff provide a comparison of what other cities have done as well as pros and cons. Mr. Topham added that he has made a comparison and the ordinances are virtually identical. Other cities that have adopted the ordinance include Salt Lake City, Salt Lake County, Holladay, Orem, Lehi, Spanish Fork, and Riverton.

In response to an inquiry, Mr. Topham reported that there have been no legal challenges to the ordinances in other jurisdictions. He referred back to the Supreme Court case that allowed specifically crafted ordinances.

It was suggested that an initial discussion be held during the January 2021 meeting.

c. **Heat in Public Works Garage Discussion – Public Works Director, Matt Shipp.**

Public Works Director. Matt Shipp reported that the above issue was adequately addressed by Mr. Tingey as part of the discussion on the Budget Amendment.

5. **Review of Calendars and Upcoming Events.**

The above matter was discussed previously.

6. **Possible Closed Meeting to Discuss Litigation, Property Acquisition, and/or the Character and Professional Competence or Physical or Mental Health of an Individual.**

Mayor Peterson noted that the Closed Session would be for Records, Culture, and Human Resources Director, Paula Melgar, Mr. Topham, and Council Members only.

MOTION: Council Member Bracken moved to close the open session of the work meeting and open a closed session for the purpose of discussing the character and fitness of an individual. The motion was seconded by Council Member Bruce. The motion passed with the unanimous consent of the Council.

The City Council was in Closed Session from _____ p.m. to ____ p.m.

7. **Adjourn City Council Work Session.**

MOTION: Council Member Bracken moved to adjourn. The motion was seconded by Council Member Bruce. The motion passed with the unanimous consent of the Council.

The Work Session adjourned at 7:06 p.m.

**MINUTES OF THE COTTONWOOD HEIGHTS CITY COUNCIL BUSINESS MEETING
HELD TUESDAY, DECEMBER 15, 2020 AT 7:00 P.M. THE MEETING WAS HELD
ELECTRONICALLY, WITHOUT A PHYSICAL LOCATION DUE TO THE CURRENT
COVID-19 PANDEMIC AND AS AUTHORIZED BY THE GOVERNOR'S EXECUTIVE
ORDER DATED 18 MARCH 2020**

Members Present: Mayor Mike Peterson, Council Member Scott Bracken, Council Member Tali Bruce, Council Member Christine Mikell, Council Member Douglas Petersen

Staff Present: City Manager Tim Tingey, City Attorney Shane Topham, Police Chief Robby Russo, Assistant Fire Chief Riley Pilgrim, Records Culture and Human Resources Director Paula Melgar, Community/Economic Development Director Michael Johnson, Public Works Director Matt Shipp, Finance and Administrative Services Director S. Scott Jurgens

1.0 WELCOME AND DETERMINATION

1.1 The Mayor, as Chair of the City Council, will read the Written Determination Concerning an Anchor Location for this Electronic Meeting During the Current Pandemic, Pursuant to Utah Code Ann. 52-4-207(4).

Mayor Mike Peterson called the meeting to order at 7:09 p.m. He read in its entirety the determination giving the Council the authority to hold the meeting via Zoom, pursuant to Utah Code Annotated §52-4-207(4).

2.0 PLEDGE AND ACKNOWLEDGEMENTS

Council Member Bruce led the Pledge of Allegiance.

3.0 CITIZEN COMMENTS

Mayor Peterson reminded those wishing to comment to refrain from any personal attacks and to be civil in making their comments.

Megan Sieverts directed her comments to the Central Wasatch Commission. She expressed concern that their focus is directed more toward tourists than residents. She wanted to see Cottonwood Heights push for a regional plan for the southeast Salt Lake Valley quadrant that features frequent, fast, and free transit, pedestrian and cycling that serves all users, skiers, hikers, climbers, commuters, and locals. She asked that these options be pursued over building more private car lanes and retrofitting the oceans of asphalt that are already present in strip mall parking lots along Fort Union Boulevard and 9000 South and 9400 South. She stated that parking lots are not the answer and she was concerned that UDOT's November addendum does not mention the Cottonwood Canyon Intermodal Hub. UDOT's focus is on the large parking lot on the east side of North Little Cottonwood Canyon Road, which would allow more vehicles along the Sandy, Granite, and Cottonwood Heights neighborhoods.

Ms. Sievers commented that the streets of Cottonwood Heights should be pedestrian and cycling-friendly and emphasize traffic calming. In 2019, there was a pledge to keep traffic at 35 MPH but that has changed with a potential five to seven lane design for Wasatch Boulevard. She did not believe that the Central Wasatch Commission will adhere to Cottonwood Heights' recommendations of only one lane in each direction. The developer, Chris McCandless, has pushed his Canyon Centre high-rise project onto the community. The focus should be more on the locals over the tourists in this project. She commented that parking lots are not the answer.

Mayor Peterson thanked Ms. Sieverts and agreed that the focus should be on the constituents of Cottonwood Heights and the impact on the City.

Joseph Bycroft commented on some of the items discussed previously, specifically the development of the gravel pit. The entrance and exit to Old Wasatch Boulevard would be the perfect place for a roundabout as opposed to in front of City Hall. He did not like entering/exiting an intersection on a curb. He expressed his hope that the Council could influence the project and make it better.

Ellen Birrell identified herself as the Founder of Save Not Pave and wished to clarify that UDOT's two alternatives for the Wasatch Boulevard expansion do not remotely resemble what is included in the Wasatch Boulevard Master Plan. The Wasatch Boulevard Master Plan contemplates one lane of vehicular traffic in each direction with the outer two lanes for express bus, HOV, or other uses. UDOT's proposed imbalanced three-lane plan is in reality a five-lane plan because the shoulder is being designated for the express buses. During peak traffic times, the result will be three lanes of vehicular traffic, two going south and one going north, as well as lanes for express buses on either side. Similarly, if UDOT proceeds with the five-lane plan, it is in reality seven lanes. She commented that this is a very serious distinction. This is a noisy arterial and while there is a lot of open land, if it is smothered by the sound of vehicular noise and traffic, it cannot serve its purpose of bringing release and communing with nature.

UDOT flagrantly ignored their 2019 pledge to reduce speeds to 35 MPH and were sticking to their plan of increasing the number of lanes, which will more than double the asphalt footprint. Ms. Birrell commented that the promises that the City is meeting with UDOT brings her no comfort because UDOT has already demonstrated that they are untrustworthy when it comes to verbal pledges.

Ms. Birrell had also noticed that the City Council has strangely become silent on its very vocal plan for an intermodal hub. Due to that silence, they are allowing UDOT to run away with the McCandless proposal, which will result in a large parking lot with thousands of spaces on the east side of North Little Cottonwood Canyon Road. This will induce demand for more private vehicles through Sandy, Granite, and Cottonwood Heights. All of UDOT's preferred alternatives are based on the parking structure that will result in increased traffic speeds through the City.

Ms. Birrell added that it is completely unacceptable that over the last three months, two Cottonwood Heights' citizens have been struck in crosswalks with one being killed and the other seriously injured. The Master Plan was not being followed to create more walkability and cycling and parents will not allow their children to walk or ride their bikes. She stated that the City is

going in the wrong direction and must address the way that the roads and plans are being developed.

Mayor Peterson thanked Ms. Birrell for her comments and noted that the Council is not being silent. They continue to be actively involved with UDOT and have had several meetings over the last month to address transportation issues.

Leslie Kovach stated that she has been a resident of Cottonwood Heights since 1985. She has lived in her current home on Lost Canyon Circle since 1994. She has watched the area grow and evolve and voted for the incorporation of Cottonwood Heights because she believed that doing so would allow the residents to have a say in how their city is managed. This would include input and redirection of Wasatch Boulevard into a community-friendly road, with manageable speeds, increased safety for the residents, and reduced traffic and noise.

Ms. Kovach stated that the citizens voted to prohibit large billboards and to reduce or discourage distracting light pollution. As with the Canyon Centre and the north end of the gravel pit, any developer will be allowed to construct any type of structure, height, density, and lighting design they choose with no regard for the citizens. She questioned why there are regulations and guidelines. She stated that Cottonwood Heights should not serve as a parking lot between the canyons or a faster way to get to I-215. The current expansion of Wasatch Boulevard appears to be motivated to profit the developers and create a freeway to a parking lot that will rob the City of its sense of community. The same was done with the Canyon Centre.

Ms. Kovach stated that she circulated a petition over the summer to reduce the signage and lighting of the project and over 60% of the residents were willing to sign it. She reported that all of the residents she spoke to felt that the expansion of Wasatch Boulevard has and will negatively impact them and their property. The residents of Prospector Hills, where property values are \$750,000 and above, felt disenfranchised by Cottonwood Heights. She could only imagine how the rest of the homeowners along and near Wasatch Boulevard feel about having their homes devalued.

Ms. Kovach asked the City Council and the Mayor to stand up for the citizens of Cottonwood Heights against UDOT, developers, and the ski resorts. Should the widening of Wasatch continue, residents will pay for the noise, congestion, traffic, and the actions of the City Council and Mayor, who need to stand up for the residents.

Mayor Peterson thanked Ms. Kovach and expressed appreciation for her continued communication and concerns.

Terry Heinrich reported that she rides her bike and walks along Wasatch Boulevard frequently and was concerned about the speed of the traffic. She was bothered by an incident where a woman was killed in a crosswalk. She always walks against traffic so that she can see the vehicles coming toward her. She expressed her belief that it is a dangerous road and the speed limit should be reduced.

Mayor Peterson thanked Ms. Heinrich and added that the Council has been consistent in agreeing that the speed limits need to be lowered rather than raised.

Anna McNamer commented that being “actively engaged” in the conversation is different than “actively opposing” UDOT as the voice of the community. The community has spoken repeatedly and reminded City officials to follow the Master Plan, which emphasizes walkability and reducing speeds. By allowing highways to be built through the canyons and community, they are destroying the small-town feel. When her family moved to Cottonwood Heights, they encouraged other family members to move here because of the small-town feel in the middle of a big city. As they consider increasing speeds, expanding roads, putting up more billboards, and adding to the light pollution, those who moved here are being negatively impacted. She stressed the importance of that City representatives defending the will of the citizens.

Ms. McNamer raised the issue of Quicksilver Drive at the mouth of Ferguson Canyon. She stated that 15 residents at the mouth of Ferguson Canyon will determine the trailhead for the rest of the State. Ferguson Canyon is a historically popular trail and by permitting roads around Ferguson, they decrease the parking. There will be chaos and problems with people walking up from the lower parking area. Since the only street that is not permitted is Quicksilver, residents will see increased traffic and congestion. Ms. McNamer asked that rather than granting permits, that the City Council first try signage or more creative solutions.

The following comments were submitted in writing:

Hannah Montoya Lazar gave her address as 7651 S. Timberline Drive. She asked that her comments be taken under consideration for the extension of permit parking in the Prospector Heights area. She supported extending permit parking and ensuring that trail users only park in the designated parking area. This balances public need with the quiet and comfortable atmosphere her neighbors have worked to cultivate and protect.

There were no further citizen comments. Mayor Peterson closed citizen comments.

4.0 PUBLIC HEARING

4.1 Budget Amendment 2020-2021 – Administrative and Fiscal Services Director, Scott Jorges.

City Manager, Tim Tingey introduced the Budget Amendment for 2020-2021. He stated that the matter has been noticed throughout the public process as required. The Budget Amendment included the following:

1. An amendment to the Capital Improvement Fund to install heaters in the Public Works shop. This allows for a more conducive work environment for staff as they perform 90% of the maintenance of equipment for the Public Works Department. This will also allow for a more timely response and expedited dispatch relief for snow plowing in emergencies.
2. A compensation adjustment proposal that was discussed in Spring 2020. As the pandemic hit, the Benefits and Compensation Committee recommended moving

forward with adjustments when there was a clearer budget picture related to revenues. The City Council adopted the budget with that recommendation.

The matter was discussed in October and November 2020 and was brought to the Council for consideration. The Council directed staff to include the Budget Adjustment at tonight's meeting. The adjustments included the following:

1. A market adjustment.
2. A merit increase that serves as a performance adjustment within the market range.

Mr. Tingey recommended approval of the Budget Amendment.

Mayor Peterson opened the public hearing. There were no public comments. The public hearing was closed.

5.0 STAFF REPORTS

5.1 Annual Report by City Auditors from Larson and Company.

Jon Haderlie from Larson and Company, presented the audit findings that were finalized as of June 20, 2020. He commented on their good working relationship with the City. He pointed out that management is responsible for financial statements, which are used by the auditors to form their opinion. They utilize a variety of different tests as part of their analysis including third party confirmations, predictive tests, highly efficient analytics, and data analytics. Specific tests were applied to specific balances that they believed provide the best results. Mr. Haderlie reported that the audit evidence they obtained during their test work was sufficient and appropriate to provide a basis for their audit opinion. They concluded that the financial statements present fairly and in all material respects the respective financial position of Cottonwood Heights for the year ending June 30, 2020.

Mr. Haderlie reported that there were a few sections of the financial statements that were not included in their analysis. They included the management discussion and analysis, which required supplementary information related to the scheduled pension contributions and the City's portion of the net pension liability. The pension information is on a 10-year schedule and not part of the basic financial statements. The management discussion and analysis provides a good overview of the financial statements and comparative data from last year.

Supplementary information included the Capital Projects Budget and the introductory and statistical sections of the Comprehensive Annual Financial Report ("CAFR") because they are not required schedules under general accounting principles. They did not specifically audit or opine on the introductory and statistical sections of the CAFR. They did note that the Capital Projects Fund schedule is fairly stated in all material respects as it relates to the basic financial statements as a whole.

Mr. Haderlie reiterated that they performed the audit according to government auditing standards. Different tests are performed as part of government audits versus company audits. Governments have a specific set of guidelines, a portion of which involves looking at internal controls. They do not give an opinion of the internal controls; however, they reviewed them to make sure that they are functioning.

Mr. Haderlie described the State Compliance Report and stated that it is required by the State Auditor and identifies areas they are required to review. They include the City's Budgetary Compliance, Fund Balance, Justice Courts, spending of Restricted Monies, compliance with the Open and Public Meetings Act, and Fraud Risk Assessment. They only look at areas the State Auditors feel are continued risk for cities in the State of Utah, a new compliance requirement, or an ongoing issue of concern. He stated that this restriction does not give a city an "out" with respect to complying with State Codes.

The auditors concluded that Cottonwood Heights complied in all material respects with the compliance requirements contained in the State Compliance Audit Guide. There is a compliance finding that is not material and does not significantly impact the City's financial records or its ability to operate. This compliance finding was the over budget in the Highways and Public Improvement Department. Mr. Haderlie did not consider this to be an ongoing issue and is not uncommon. His belief was that this overage is something that can be rectified almost immediately and will not present a problem in the future.

Mr. Haderlie pointed out that anything that is a governmental fund is never reported by natural classification. Governmental funds pertain to the function of the expenditures, which is why the statements are grouped in various categories. When analyzing the budget, finances are broken down by department. The General Fund is a catchall of all of the governmental operations in the City. As part of the audit, they test whether they are within budget in each department.

Mr. Jurgens clarified that General Government is a department, while all of the components of General Government are activities and not departments. Mr. Haderlie explained that this illustrates why government financial statements are not prepared by natural function.

Mr. Haderlie concluded by stating that the audit went smoothly. He expressed appreciation to City Treasurer, David Muir for preparing the financial statements and to Mr. Jurgens for providing the needed information in a timely fashion.

Mayor Peterson asked if the audit results are typical as compared to other cities. Mr. Haderlie stated that comparing this audit with other cities is difficult to do but reiterated that the audit process was smooth. He explained that compliance issues will occur and they are required to report them. He would be more concerned with an internal control finding. As for Cottonwood Heights, he stated that there is a good structure in place and good internal controls.

Council Member Petersen expressed his appreciation to Messrs. Jurgens and Muir for their work.

Mr. Jurgens added that this year there a new Fraud Risk Assessment Report was required to be sent to the State Auditor's Office, along with their financial statements. This report addresses different

control aspects of the City. The only item that they do not have is a formal internal audit function. This is something that he and Mr. Muir have the ability and training to do. They would prepare something to satisfy this requirement. He also noted that for all other items on the Fraud Risk Assessment, they have something in place to satisfy the requirements. They are consistently trying to improve their procedures. He discussed the separation of duties requirement and highlighted the permit desk where they have mitigating controls to prevent fraudulent control type issues. It was noted that when there is good segregation of duties, there is good transparency.

5.2 CAFR Presentation by Director of Finance, Scott Jurges and City Treasurer, David Muir.

Mr. Jurges reported that the CAFR has been completed and complies with the outlined government finance standards. There are several requirements, some of which are basic financial statements. Other requirements include management write-ups, auditor reports, and notes to outline and describe accounting policies and practices. It also includes statistical sections to review the historical basis for items such as revenues.

Mr. Muir reported that they follow the CAFR guidelines set forth by the Government Finance Officers Association (“GFOA”) that are submitted each year for peer review. For each year they have submitted it for peer review, they have received an ‘acceptable’ or ‘approved’ peer review. He noted that the statistical section provides 10 years of historical data. More recently, they have included pension liability and a schedule of contributions for pensions.

Mr. Jurges directed the Council to the balance sheets for the funds, as well as the section that shows the revenue. He highlighted the section reflecting the adopted budget, the final budget including adjustments, fund actuals, and variances. It was noted that the additional fund balance was \$1.1 million and there was a positive variance to the budget of \$1.7 million. Mr. Jurges reported that the increase is largely due to the \$700,000 in Coronavirus Aid, Relief, and Economic Security (“CARES”) Act funding from the Federal government.

Mayor Peterson directed attention to the balance of the Community Development and Renewal Agency (“CDRA”) Fund of \$1.9 million. Mr. Jurges noted that of that amount, approximately \$204,000 is related to the early trigger of the tax increment financing of the Canyon Centre. The remaining balance was being reviewed. In response to an inquiry from Council Member Mikell, it was noted that the tax area was triggered in early 2015, but when they renegotiated, the trigger date was pushed back to 2021. They are currently talking with the taxing entities to find out what happens with the \$204,000. The funds may need to be disbursed back to the taxing entities or utilized as part of the reimbursements associated with the development agreements.

Mr. Jurges explained that the budgets are compared in the following four groups:

1. General Government;
2. Public Safety;
3. Highways and Public Improvements (Public Works); and
4. Community and Economic Development.

It was noted that they exceeded the Public Works budget by \$31,000, however they were under budget in the total General Fund by \$650,000.

With respect to the budget overage in Public Works, he explained that the City hired a new in-house engineer in July and gave Notice of Termination to the contract engineer once the budget process was completed. They incurred a cost of \$71,000 by canceling the contract engineer recognizing that they were not budgeted to incur that cost but also knowing that it was likely that the budget would absorb the additional cost. Ultimately it was absorbed in the General Fund. The Public Works budget was able to absorb approximately one-half of the cost.

When the pandemic hit, their focus was elsewhere and they did not readdress the issue and re-allocate any of the existing budget to cover the overage. The overage of \$32,321 in the Public Works Budget became an exception. Mr. Jurgens assured the Council that they are saving money by hiring an in-house engineer. He stated that the budget document has been completed and distributed to each Council Member. It will also be posted on the City's website.

6.0 ACTION ITEMS

6.1 Consideration of Ordinance 351 Approving an Amendment to the 2020-2021 Budget.

Mr. Tingey introduced the amendment to the 2020-2021 budget, which contains the following:

1. A \$21,000 amendment to the Capital Improvement Fund for improvements to the Public Works shop to install heat.
2. \$304,123 in compensation increases in the General Fund for January to June.

Staff recommended approval of the budget amendment.

Mayor Peterson added that the United Fire Authority ("UFA") Board has taken a similar approach to compensation increases.

Council Member Bracken added that there were significant concerns about the impact of COVID-19 on the budget. He expressed appreciation to the employees and their willingness to be patient. He was pleased that revenues have not decreased to the extent anticipated, which allows them to make both adjustments for the benefit of the employees.

Council Member Bruce echoed the comments of Council Member Bracken. Mayor Peterson expressed appreciation to staff and appreciated the conservative spending that has taken place.

MOTION: Council Member Bracken moved to approve Ordinance 351. The motion was seconded by Council Member Petersen. Vote on motion: Council Member Mikell-Aye, Council Member Bruce-Aye, Council Member Bracken-Aye, Council Member Petersen-Aye, Mayor Mike Peterson-Aye. The motion passed unanimously.

6.2 Consideration of Resolution 2020-56 Declaring Certain Property Surplus.

Mr. Jurgens reported that in the process of changing out police vehicles, they removed 37 modems that are available and in working order. They would like to sell them through eBay to other entities. The funds would come back in the form of revenue in the General Fund.

MOTION: Council Member Petersen moved to approve Resolution 2020-56. The motion was seconded by Council Member Bruce. Vote on motion: Council Member Mikell-Aye, Council Member Bruce-Aye, Council Member Bracken-Aye, Council Member Petersen-Aye, Mayor Mike Peterson-Aye. The motion passed unanimously.

6.3 Consideration of Resolution 2020-57 Consenting to Reappointments to the Historic Committee.

Mayor Peterson reported that the above resolution would reappoint Paul Benner, Gayle Conger, and Carol Woodside to the Historic Committee. He noted that their qualifications were included in the packet. Mr. Tingey added that these individuals are passionate about the work of the Historic Committee and do a great job. He recommended approval. Council Member Bruce stated that these individuals are an asset and the City is fortunate to have such quality people willing to serve on the Committee. Mayor Peterson agreed.

MOTION: Council Member Bruce moved to approve Resolution 2020-57. The motion was seconded by Council Member Bracken. Vote on motion: Council Member Mikell-Aye, Council Member Bruce-Aye, Council Member Bracken-Aye, Council Member Petersen-Aye, Mayor Mike Peterson-Aye. The motion passed unanimously.

6.4 Consideration of Resolution 2020-58 Designating a Portion of Prospector Drive as a Parking Permit Area.

Mr. Johnson introduced the above resolution and explained that it seeks to expand the existing permit parking area near the Ferguson Canyon Trailhead. He presented a graphic of the existing area and the proposed area. A public hearing was held and final action was needed. He addressed concerns regarding on-street parking in the area. They were encouraging and requiring those who use the trailhead to either park in the stalls at the trailhead or use the overflow area. The overflow area was slated for construction and improvement into a larger parking area during the summer of 2021. Once complete, they feel there will be adequate parking for trail users. They discussed taking temporary Council action to put a hold on permit parking, pending completion of construction. The matter was to be addressed at a later date.

Mr. Johnson addressed a question regarding expanding the petition on Quicksilver Drive. Staff met with a resident who was interested in pursuing a petition there but it must be a separate petition following the same process. He addressed the issuance of guest permits. They were to be included in a text amendment that would be brought before the Council in January 2021.

If the resolution is approved, staff will have some administration to complete before implementation. This will involve sending letters to residents regarding permits and ordering signs to be fabricated and installed.

Council Member Mikell asked about other trailheads in the valley that require a small walk from the parking area to the trailhead. Mr. Johnson noted that their research has revealed other cities that have permit parking around trailheads. He referenced Millcreek, Sandy, and Hughes Canyon.

Council Member Bruce was struggling with the timing and 14th Amendment issues and would be more comfortable if the timing of construction of the overflow lot was sooner. She, however, recognized the precedent and what other cities are doing.

Council Member Bracken also expressed his desire for streets to remain open for public parking but understood the reasoning behind permit parking. He clarified that implementation would not be immediate due to administrative items that need to be accomplished, such as signage. He noted that in January 2021, they would be addressing textual revisions on how the permitting will work. With those understandings in place, he could support the resolution.

Mayor Peterson expressed his sympathy for the issues raised by those who live near the trailhead but reminded the Council that they represent all constituents. He stated that the comments of Council Members Bruce and Bracken were appropriate and he appreciated hearing both sides.

Council Member Mikell added that residents expressed concern and begged for help with the parking issues in the area. Salt Lake County agreed to build a parking lot but then realized that they would not be able to use the funding for overflow parking. They then worked with UDOT and others to bring the funding back to the City to fund the overflow parking. They discussed a potential Dog Park with the Parks, Trails, and Open Space Committee. If they end up with a Dog Park in District 4 they may have end up with something many people do not want. Many in the neighborhood want safety for their children and the ability to walk in the neighborhood without unleashed dogs. The distance from the overflow parking to the trailhead is .2 miles. That seemed to be the best solution even though not everyone supported it.

MOTION: Council Member Mikell moved to approve Resolution 2020-58. The motion was seconded by Council Member Petersen. Vote on motion: Council Member Mikell-Aye, Council Member Bruce-Aye, Council Member Bracken-Aye, Council Member Petersen-Aye, Mayor Mike Peterson-Aye. The motion passed unanimously.

7.0 CONSENT CALENDAR

7.1 Approval of the City Council Work Session and Business Meeting Minutes for December 1, 2020.

MOTION: Council Member Bruce moved to approve the City Council Work Session and Business Meeting Minutes of December 1, 2020. The motion was seconded by Council Member Petersen. Vote on motion: Council Member Mikell-Aye, Council Member Bruce-Aye, Council Member Bracken-Aye, Council Member Petersen-Aye, Mayor Mike Peterson-Aye. The motion passed unanimously.

8.0 ADJOURN CITY COUNCIL BUSINESS MEETING.

MOTION: Council Member Bracken moved to adjourn the City Council Business Meeting. The motion was seconded by Council Member Bruce. The motion passed with the unanimous consent of the Council.

The meeting adjourned at 8:39 p.m.

I hereby certify that the foregoing represents a true, accurate, and complete record of the Cottonwood Heights City Council Business Meeting held Tuesday, December 15, 2020.

Teri Forbes

Teri Forbes
T Forbes Group
Minutes Secretary

Minutes Approved: January 5th, 2021